IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5963 OF 2005

Jagadish Govind Chawala & Ors. : Petitioners

V/s.

The Chairman/Secretary, Kamar Co-operative Housing Society Ltd. & Ors. : Respondents

...

Mr.K.H.Chopda for the petitioners.

Mr.A.J.Bhor for the respondent no.5.

...

CORAM : S.A. BOBDE, J.

September 6, 2005.

P.C.:

1. By this petition, the petitioners have challenged the order of the Deputy Registrar, Co-operative Societies, ‘D’ Division, Mumbai, dated 25.8.2005.

2. By the impugned order, the Deputy Registrar has held that the petitioners are not entitled to contest the election of Kamar Co-operative Housing Society Ltd., on the ground that they have not proved their eligibility as per condition no.6 of the Appendix.

3. Mr.Chopda, the learned counsel for the petitioners, relied on a document at exh.'A' to the petition which states vide para 2 that the petitioners are the original tenants and have documents prior to 1.1.1995. However, this document itself shows that the matter is pending in the City Civil Court.

4. Two authorities have taken the view that the petitioners have not proved their existence in the premises prior to 1.1.1995. The dispute involves a dispute of facts which cannot be appropriately decided by this Court in its extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. I am, therefore, not inclined to entertain this petition. The petitioners are at liberty to file an appropriate election dispute as may be advised, in accordance with law.

5. The petition stands dismissed.

S.A. BOBDE, J.